

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,)
)
 v.) Criminal No. 20-143
)
 ZACKARY ELLIS SANDERS,)
)
 Defendant.) Alexandria, Virginia
) July 10, 2020
 _____)

TRANSCRIPT OF ARRAIGNMENT
BEFORE THE HONORABLE T. S. ELLIS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: WILLIAM CLAYMAN, AUSA
RAJ PAREKH, AUSA
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For the Defendant: EMILY VOSHELL, ESQ.
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P R O C E E D I N G S

(9:44 a.m.)

THE COURT: You may call the first matter.

THE DEPUTY CLERK: The Court calls Criminal Case
United States of America versus Zachary Ellis Sanders, Case
Number 2020-CR-143.

May I have appearances please, first for the
government.

MR. CLAYMAN: Good morning. Bill Clayman and Raj
Parekh for the United States.

THE COURT: Good morning.

And for the defendant?

MS. VOSHELL: Good morning, Your Honor. Emily
Voshell on behalf of Zackary Sanders.

Your Honor, Jade Chong-Smith is also present in
court; however, I filed her pro hac vice motion last night,
so I don't think it has been granted just yet.

THE COURT: Yes, I saw it, and I have signed it.

MS. VOSHELL: Wonderful, Your Honor. Thank you.

THE COURT: We're glad to have you here today.

Good morning to you, Mr. Sanders.

THE DEFENDANT: Good morning, Your Honor.

THE COURT: Just to be clear, I see your middle name
is Ellis.

THE DEFENDANT: It is, yes.

1 THE COURT: I think you will agree with me that there
2 is no familial relationship at all between us.

3 THE DEFENDANT: Correct.

4 THE COURT: All right. You may be seated for a
5 moment, sir.

6 All right. Let me ask whether you've had an adequate
7 opportunity to review the matter with your client; that is,
8 review the indictment with your client.

9 MS. VOSHELL: Yes, Your Honor, we have had an
10 adequate opportunity to review the indictment with
11 Mr. Sanders.

12 THE COURT: Let me confirm with Mr. Sanders that
13 you've had an adequate opportunity to review the indictment
14 with your counsel.

15 THE DEFENDANT: Yes, I have, Your Honor.

16 THE COURT: And are you fully satisfied with the
17 advice and counsel you have received thus far from your
18 attorney?

19 THE DEFENDANT: I am, yes.

20 THE COURT: All right. You may be seated.

21 Does your client waive formal reading?

22 MS. VOSHELL: Yes, Your Honor.

23 THE COURT: How does he wish to plead?

24 MS. VOSHELL: He enters a plea of not guilty to all
25 counts, Your Honor, and we further assert all his rights

1 under the Constitution.

2 THE COURT: All right. He seeks a jury trial.

3 MS. VOSHELL: Yes, Your Honor.

4 THE COURT: All right. Let me ask counsel for the
5 government, how long do you think it will take the government
6 to present its case-in-chief?

7 MR. CLAYMAN: I think three to four days, Your Honor.

8 THE COURT: All right. I think I shall set aside,
9 then, four to five days for a trial.

10 Ms. Voshell, does that look like a reasonable period
11 of time to you?

12 MS. VOSHELL: Yes, that sounds like a reasonable
13 period of time to the defense, Your Honor.

14 THE COURT: All right. So the speedy trial date is
15 the 23rd of October, and we do indeed anticipate having
16 criminal trials then.

17 MR. CLAYMAN: Your Honor, I apologize. I calculated
18 the speedy trial date as November 23rd based on the latest
19 general order from this court.

20 THE COURT: What did I say?

21 MR. CLAYMAN: October 23rd.

22 THE COURT: You're right. It is November 23rd.
23 Thank you for the correction.

24 All right. I will set the case for trial on
25 November 23rd. Is that a Monday?

1 MR. CLAYMAN: That is, Your Honor.

2 THE COURT: I typically begin trials on a Tuesday,
3 but I'll make an exception here. It is set now for
4 November 23rd, at 10:00 a.m., with a jury.

5 And I will set motions to be filed by the 24th of --

6 MS. VOSHELL: Your Honor, if I may briefly be heard
7 on a couple of issues with setting motions?

8 THE COURT: Yes, you may.

9 MS. VOSHELL: So, Your Honor, as you may be aware,
10 Mr. Sanders was arrested in this case on March the 20th. His
11 indictment was delayed due to COVID-19. During that time, we
12 have had an opportunity to review the affidavit in support of
13 the search warrant in this case, and we very strongly
14 believe, as we have communicated multiple times to the
15 government, a very meritorious *Franks* motion and motion to
16 suppress lies based on the limited discovery that we have
17 received so far related to the application in support of the
18 search warrant. We believe that the agent materially misled
19 the magistrate in this case. However, we are still missing
20 very critical discovery that we need to be able to file the
21 *Franks* motion and the motion to suppress in this case. We
22 have discussed this with the government. The government's
23 position is that they have complied with their discovery
24 obligations. But at this point we have reached an impasse,
25 and we intend to filed a motion to compel discovery for a

1 very discrete and limited set of items that are related
2 directly to Mr. Sanders' motion to suppress, and we intend to
3 file that on Monday. And we would also ask to have a hearing
4 on the motion to compel the last week of July. We've
5 discussed dates with the government of July the 30th or 31st,
6 I believe, and I think that will give the government enough
7 time to respond to our motion to compel and have everything
8 fully briefed before the Court.

9 THE COURT: What is the government's view of that in
10 terms of scheduling only?

11 MR. CLAYMAN: In terms of scheduling, Your Honor, we
12 could be available at the end of July. We do believe that it
13 is premature at this point and would like additional time to
14 review the material that we have and to continue making
15 discovery productions. But if they are to file on Monday, we
16 would be available at the end of July.

17 THE COURT: Well, I am going to set a motions date,
18 but it will be well after this. Motions must be filed by the
19 20th of August. That should give you sufficient time for the
20 defendant and the government to respond, and a hearing, if
21 necessary. And be clear in your motions whether you think an
22 evidentiary hearing is required and how many witnesses, so
23 that I can make an assessment of when to schedule that.

24 Let me ask, Ms. Voshell, the 20th of August, that
25 gives you sufficient time, does it not? That's for all

1 motions. Now, you're going to file another motion, and I
2 think you can assume correctly that I will resolve that
3 motion fairly promptly.

4 MS. VOSHELL: Yes, Your Honor.

5 THE COURT: If it isn't resolved by your negotiations
6 with the government.

7 MS. VOSHELL: Yes, Your Honor.

8 Again, we would ask the Court to set a hearing date
9 on the motion to compel for July the 30th or 31st so that we
10 can ensure that that motion is fully argued and decided by
11 then in enough time for us to hopefully receive that material
12 from the government and make use of it in our August 20th
13 motions.

14 THE COURT: Yes, I will set it for July 31st.

15 MS. VOSHELL: Thank you, Your Honor.

16 THE COURT: All right. And I set the motions date
17 for August 20th. And if a hearing is required, then the
18 hearing will be on September the 11th. And I have already
19 set the trial in November.

20 Do you have a discovery order?

21 MR. CLAYMAN: We don't at this time, Your Honor.
22 We're still discussing discovery.

23 THE COURT: All right.

24 MR. CLAYMAN: I was going to ask Your Honor, my
25 co-counsel is unavailable the final week of November for the

1 trial date. Is there any way it could be earlier in
2 November?

3 THE COURT: Yes. I will set it for the 17th of
4 November, at 10:00 a.m., with a jury.

5 MR. CLAYMAN: Thank you, Your Honor.

6 MS. VOSHELL: That's fine for the defense, Your
7 Honor.

8 THE COURT: All right. Anything further to be
9 accomplished in this matter today?

10 MR. CLAYMAN: Nothing from the government, Your
11 Honor.

12 THE COURT: All right. I thank counsel for your
13 cooperation.

14 (Adjourned)

CERTIFICATE OF OFFICIAL COURT REPORTER

I, Patricia A. Kaneshiro-Miller, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated this 24th day of November, 2021

/s/ Patricia A. Kaneshiro Miller

Patricia A. Kaneshiro-Miller, RMR-CRR
Official Court Reporter